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EXAMINER

TARAE, CATHERINE MICHELLE

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/733,921

Applicant(s)

RICHARDSON, MARY L.

Examiner

C. Michelle Tarae

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-9, 11-14, 42, 45-50, 52, 54-56, 59-63 and 65-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-9, 11-14, 42, 45-50, 52, 54-56, 59-63 and 65-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Non-Final Office Action in response to the communication received on August 17, 2006.

Claims 75-78 have been newly added.

Claims 1-6, 10, 15-41, 43-44, 51, 53, 57, 58 and 64 have been previously cancelled.

Claims 7-9, 11-14, 42, 45-50, 52, 54-56, 59-63 and 65-78 are now pending in this application.

Response to Amendment

2. Applicant's addition of claims 75-78 are acknowledged.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-9, 11-14, 42, 45-50, 69-74, 76-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over www.jobasia.com.

The following sources explaining the different aspects of www.jobasia.com are considered as describing one reference:

- i. www.jobasia.com (February 1999, archived version) (referred to herein as reference A);
- ii. Article, "Online job markets, most are middle professionals" from *HK Economic Times*, Oct 3, 1998, (referred to herein as reference B);
- iii. Article, "Internet Update Asia 02/19/99," from *Newsbytes*, Feb 19, 1999, (referred to herein as reference C).

As per claim 42, www.jobasia.com discloses a method for placing applicants into jobs comprising the steps of:

broadcasting job listings of employers to the applicants, wherein an employment placement service provider broadcasts the job listings, wherein broadcasting the job listings comprises posting the job listings on a global computer network (reference A, pages 2 and 4; reference C, page 1; www.jobasia.com is an internet website that provides job seekers with job listings from employers.);

identifying, using a computer, an applicant who is hired to fill a job listing of the broadcast job listings, wherein the job listing is for an employer (reference B; www.jobasia.com identifies job seekers who were hired using its service and further classifies the hires into job categories.);

awarding a signing bonus to the applicant, where the employment placement service provider pays the signing bonus (reference B; Job seekers who are hired by an employer through the website are paid bonuses by www.jobasia.com.); and

collecting an advertising fee from the employer, wherein the employment placement service provider collects the advertising fee, wherein the advertising fee includes a fee for the employment placement service provider (reference A, pages 2 and 6; Employers pay advertising fees to advertise their job positions on www.jobasia.com).

Jobasia does not expressly disclose that the advertising fee includes a fee for the signing bonus, and wherein the employment placement service provider pays the signing bonus from the advertising fee. However, www.jobasia.com does disclose receiving advertising fees from employers (and not from job seekers) (reference A, pages 2 and 6), thereby incorporating the advertising fees into www.jobasia.com's source of revenue. Official Notice is taken that it is an old and well-known business practice for a company to apply its incoming revenue stream to outgoing costs in order to leverage its cash flow. Consequently, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for www.jobasia.com to utilize the advertising fees it collects from employers to pay for the signing bonuses because the advertising fees are part of www.jobasia.com's source of revenue, thereby allowing www.jobasia.com to efficiently leverage its incoming cash flow to pay for outgoing costs.

As per claim 45, www.jobasia.com discloses the method of claim 42, wherein the step of identifying the applicant who is hired to fill the job listing comprises:

(i) requiring the applicant to reference the employment placement service provider when applying for the job listing (reference A, page 4; Applicants submit their

resumes to employers through the jobasia website (i.e., using the QuickApply tool), thereby referencing jobasia.com when applying for the listing.); and

(ii) receiving, at the employment placement service provider, a notification that the applicant was hired for the job listing (reference B; Jobasia must be notified that an applicant has been hired for a job listing in order to award the hiring bonus to the applicant.).

As per claims 46 and 47, while www.jobasia.com does disclose being notified of a hiring (reference B), www.jobasia.com does not expressly disclose the method of claim 45, wherein the applicant or employer provides the notification. However, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of www.jobasia.com to have the applicant or employer notify jobasia.com of a hiring as doing so places the onus on the applicant or employer, thus relieving jobasia.com of extra information to track and allowing the website to focus on other aspects of its services.

As per claim 48, www.jobasia.com does not expressly disclose the method of claim 47, wherein the employer provides the notification after the employment placement service provider determines that the job listing was deleted and after the employment placement service provider questions the employer. However, jobasia.com does disclose updating the job listings seven days a week and removing the listing at a time specified by the employers (reference A, page 2), which is done to ensure that accurate job listings are presented on the website. Thus, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for jobasia.com to have

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the employer provide the notification after jobasia.com determines that the job listing was deleted and after jobasia.com questions the employer because doing so further supports jobasia.com's goal of maintaining accurate job listings on its website.

As per claim 49, www.jobasia.com discloses the method of claim 42, wherein the job listing is for a critical hire position (reference A, page 4; Jobasia.com includes professional field jobs that are in high demand such as accounting and information technology.).

As per claim 50, www.jobasia.com discloses the method of claim 49, wherein the method further comprises the steps of:

(i) identifying a second applicant who is hired to fill a second job listing, wherein the second job listing is for a non-critical hire position and (ii) entering the second applicant in a pool of applicants for a prize drawing, wherein the pool of applicants includes applicants that have been hired for non-critical hire positions during a specified period (reference B; jobasia.com also has job listings for non-critical positions such as marketing. Those applicants who were hired during the summertime were entered into a drawing.).

As per claim 69, www.jobasia.com discloses the method of claim 42, wherein a job listing of the job listings comprises a title, a job number, a department name, an opening date, an employer name, a description, a job class, a job search class, a signing bonus amount, an amount of experience required, an amount of education required, an email address and a contact (reference A, pages 2, 4; reference C, page 1; www.jobasia.com provides a database of various employer and job listings data for

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applicants to search through such as title, employer name, description, job class, education required, signing bonus, contact info, etc.). www.jobasia.com does not expressly disclose all of the listed data for the job listings such as an indicator of whether or not the job is part-time, a number of part-time hours, a start pay from field, a start pay to field, a number of leave days, an indicator of whether or not relocation is offered, a shift type, a flex type, a closing date, a reason closed, a date entered field, an entered by field, a last updated date field, a last updated by field, and a job id.

However, it is old and well known in the industry of employment recruitment to include enough information about the employer and the job listing to enable an applicant to make an informed decision about whether or not a job listing is a suitable match.

Additionally, such information is considered non-functional descriptive data, which does not hold any functional difference over the prior art. At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of www.jobasia.com to have a job listing include all of the above-listed information since such information would facilitate an applicant's decision making process by allowing him/her to evaluate the information against his/her own employment/company/salary criteria for deciding whether or not an employer and job listing is a good match.

As per claim 70, www.jobasia.com discloses the method of claim 42, further comprising providing employer information about the employers (reference A, pages 2, 4; reference C, page 1; www.jobasia.com provides a database of various employer and job listings data for applicants to search through such as title, employer name, description, job class, education required, signing bonus, contact info, etc.).

As per claim 71, www.jobasia.com discloses the method of claim 70, wherein the employer information comprises an employer name, an address, a phone number, a fax number, a home page address, an email address, a description, an indicator of whether or not a signing on bonus is offered (reference A, pages 2, 4; reference C, page 1). www.jobasia.com does not expressly disclose all of the listed data for the employer such as an account status, a facility type, a number of beds, a number of employees, an indicator of whether or not a teaching facility, an indicator of whether or not a stat facility, an indicator of whether or not a federal facility, an indicator of whether or not a military facility, a trauma level, an employee healthcare insurance contribution, a total leave amount, an indicator of whether or not a relocation package is offered, an indicator of whether or not a tuition reimbursement is offered, an indicator of whether or not a fitness center is available, an indicator of whether or not a dental program is offered, an indicator of whether or not a vision program is offered, and an indicator of whether or not a day care center is available. However, it is old and well known in the industry of employment recruitment to include enough information about the employer and the job listing to enable an applicant to make an informed decision about whether or not a job listing is a suitable match. Additionally, such information is considered non-functional descriptive data as well as intended use (i.e., for health care employment recruitment), which does not hold any functional difference over the prior art. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of

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performing the intended use, then it meets the claim. Thus, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of jobasia.com to have a job listing include all of the above-listed information since such information would facilitate an applicant's decision making process by allowing him/her to evaluate the information against his/her own employment/company/salary criteria for deciding whether or not an employer and job listing is a good match.

As per claims 72 and 73, www.jobasia.com does not expressly disclose the method of claim 42, further comprising limiting signing bonuses paid to the applicant to a predetermined number within a defined time period; or wherein the predetermined number comprises two and the defined time period comprises one year. At the time of the invention, it would have been obvious to a person of ordinary skill in the art for www.jobasia.com to limit the number of signing bonuses an applicant can receive within a predetermined time period because doing so prevents applicant's from abusing the signing bonus process, and thus, ensuring only seriously interested applicants accept positions.

As per claim 74, www.jobasia.com discloses the method of claim 42, wherein the job listings include departments of the employers, and wherein the method further comprises:

receiving a search request for job listings pertaining to a specialty occupation (reference A, page 4; Applicants may utilize jobasia.com's various search engines to search for job listings meeting certain criteria.);

identifying pertinent job listings that have departments associated with the specialty occupation (reference A, page 4; Applicants may identify, using jobasia.com's various search engines, job listings that meet certain criteria.); and

returning search results listing the pertinent job listings (reference A, page 4; jobasia.com's various search engines return results meeting job listing criteria to applicants.). www.jobasia.com does not expressly disclose the employers are hospitals. However, employment placement applies to many industries, including the health care industry. Additionally, stating that the employers are hospitals is merely intended use, which does not hold any functional difference over the prior art. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Thus, at the time of the invention, it would have been obvious for a hospital to utilize the employment placement service of www.jobasia.com because, like many businesses, hospitals require qualified applicants to fill certain positions, which is a service www.jobasia.com provides.

As per claim 7, www.jobasia.com discloses the method of claim 70, wherein the employer information is uniform criteria for all of the employers (reference A, page 4; Employers can be searched on certain criteria.).

As per claim 8, www.jobasia.com does not expressly disclose the method of claim 70, wherein the employers are health care providers. However, employment placement applies to many industries, including the health care industry. Additionally,

www.jobasia.com allows job seekers to search for positions in 36 job areas and over 87 industries (reference A, page 4). Thus, at the time of the invention, it would have been obvious for a health care provider to utilize the employment placement service of www.jobasia.com because, like many businesses, health care providers require qualified applicants to fill certain positions, which is a service www.jobasia.com provides.

As per claim 9, www.jobasia.com discloses the method of claim 70, wherein the step of providing employer information further comprises providing employer information about employers that are not posting job listings on the service (reference A, page 4; Job seekers may search for companies by name.).

As per claim 11, www.jobasia.com discloses the method of claim 70, wherein the step of providing employer information comprises searching for an employer matching particular employer information desired by an applicant (reference A, page 4; reference C, page 1).

As per claim 12, www.jobasia.com discloses the method of claim 11, wherein if the searching does not return a matching employer, then the method further comprises the steps of:

(i) storing the particular employer information desired by the applicant; (ii) periodically searching for the particular employer information desired by the applicant; and (iii) notifying the applicant when the searching returns a matching employer (reference A, page 4; Job seekers can save search criteria in a personal profile and have the profile automatically updated when job ads match.).

As per claim 13, www.jobasia.com does not expressly disclose the method of claim 12, wherein the step of notifying the applicant comprises sending an email to the applicant. However, www.jobasia.com does disclose job seekers registering for the service with an email address and employers communicating with job seekers via email (reference A, pages 2 and 7). Thus, at the time of the invention it would have been obvious to a person of ordinary skill in the art for applicants to be notified via email of job matches because doing so facilitates and expedites information to the applicants, thus making the service more efficient and effective.

As per claim 14, www.jobasia.com discloses the method of claim 12, further comprising the steps of:

storing particular employer information desired by multiple applicants and analyzing the stored particular employer information to provide information as to demand for certain employer criteria (reference A, page 4).

As per claim 76, www.jobasia.com discloses the method of claim 70, further comprising allowing the applicant to compare the job listings and the employer information (page 4; The three job search engines, company search and personalized home page of job ads allows job seekers to compare job listings and employer information.).

As per claim 77, www.jobasia.com discloses the method of claim 42, wherein the job listings comprise non-critical hire positions and critical hire positions (reference A, page 4; reference B; www.jobasia.com lists job ads relating to both non-critical hire positions such as marketing, and critical hire positions such as accountants and

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information technology.), but does not expressly disclose wherein the advertising fee is paid only for the critical hire positions that are filled. However, it is old and well known in the art of the service industry to only charge for services that are rendered, or to only charge for services that are rendered to a customer's satisfaction. Thus, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the teachings of www.jobasia.com to have the advertising fee paid only when critical hire positions are filled because doing so enhances the customer service provided to employers and provides employers incentives to list job positions with the employment service provider as the employers only pay for critical job positions, thus ensuring their return on investment.

As per claim 78, www.jobasia.com discloses the method of claim 42, further comprising allowing the applicant to access informational websites owned by the employment service provider (page 4; The company search, which is through jobasia's website, provides job seekers with information on companies and jobs.).

5. Claims 52, 54-56, 59-63 and 65-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over www.jobasia.com, as applied above, and www.replyto.com.

The following sources explaining the different aspects of www.jobasia.com are considered as describing one reference:

i. www.jobasia.com (February 1999, archived version) (referred to herein as reference A);

- ii. Article, "Online job markets, most are middle professionals" from *HK Economic Times*, Oct 3, 1998, (referred to herein as reference B);
- iii. Article, "Internet Update Asia 02/19/99," from *Newsbytes*, Feb 19, 1999, (referred to herein as reference C).

The following sources explaining the different aspects of www.replyto.com are considered as describing one reference:

- i. Article, "New Web Site Pays Job Seekers to Help Fill High Tech Job Openings" from *Business Wire*, Nov 22, 1999, (referred to herein as reference D);
- ii. Article, "New Web Site Pays \$50, \$500 or More for Your Resume" from *Business Wire*, July 27, 1999 (referred to herein as reference E).

As per claim 52, www.jobasia.com does not expressly disclose the method of claim 42, wherein the employer designates how much the signing bonus is. www.replyto.com discloses the employer designates the amount of the signing bonus (reference D, page 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of www.jobasia.com to have the employer designate the signing bonuses as the employer has the best understanding of what signing bonus amounts are commensurate with which positions and, therefore, best attract the desired applicants for the positions, which www.replyto.com has indicated as a goal of the hiring bonus (reference D, page 1).

As per claim 54, www.jobasia.com does not expressly disclose the method of claim 42, wherein the fee for the employment placement service provider is a

percentage of the fee for the signing bonus. www.replyto.com discloses the fee for the employment placement service provider is a percentage of the fee for the signing bonus (reference E). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of www.jobasia.com to utilize a fee structure similar to that of www.replyto.com where the fee for the employment placement service provider is a percentage of the fee for the signing bonus because doing so encourages companies to post more job listings since listing the job positions is free until an applicant is hired and awarded a hiring bonus. Encouraging companies to post more job listings provides job seekers a larger job pool to search from, thus enhancing the overall effectiveness of the job placement service, as indicated as a result by www.replyto.com on the bottom of page 1 of reference D.

As per claim 55, www.jobasia.com does not expressly disclose the method of claim 42, wherein the step of broadcasting comprises: (i) notifying a group of employers that the applicant satisfies criteria of the group of employers; (ii) accepting bids for the applicant from the group of employers; and (iii) allowing the applicant to choose a desired bid. www.replyto.com discloses (i) notifying a group of employers that the applicant satisfies criteria of the group of employers (reference D, page 1; Employers identify resume capsules that meet their qualifications and goals criteria.); (ii) accepting recruitment letters for the applicant from the group of employers (reference D, page 2; reference E, page 1; Employers then request a full resume and send a recruitment letter to an applicant matching their desired criteria.); and (iii) allowing the applicant to choose a desired offer/recruitment letter (reference D, page 2; If an applicant is interested in the

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recruitment letter of an employer, then the applicant permits replyto.com to send the employer the applicant's full resume. Employers may hire applicants through the www.replyto.com website.). Additionally, it is old and well known in the art of employment recruitment for multiple employers to send bids out to qualified applicants and for applicants to choose a desired bid. It is also old and well known in the art of employment recruitment for employers to provide bids/offers for hire to applicants via recruitment letters. At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of jobasia.com to enable employers to send bids out to qualified applicants and for applicants to choose a desired bid because doing so maximizes the potential for each party to achieve their desired goal (i.e., it allows employers to recruit qualified candidates and it allows applicants to seek employers matching their job/employer/salary criteria).

As per claim 56, www.jobasia.com discloses a method for filling job openings comprising the steps of:

broadcasting a plurality of job listings of employers to a plurality of applicants without charging the employers an advertising fee, wherein an employment placement service provider broadcasts the plurality of job listings and wherein broadcasting comprises posting the plurality of job listings on a global network (reference A, pages 2 and 4; reference C, page 1; www.jobasia.com is an internet website that provides job seekers with job listings from employers.);

identifying, using a computer, a job listing of the plurality of job listings for which an applicant of the plurality of applicants was hired, wherein the job listing is for an

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employer (reference A, page 4; reference B; www.jobasia.com identifies job seekers who were hired using its service and further classifies the hires into job categories.); and paying the applicant a signing bonus, wherein the employment placement service provider pays the signing bonus (reference B; Job seekers who are hired by an employer through the website are paid bonuses by www.jobasia.com).

www.jobasia.com does not expressly disclose that the signing bonus is paid from the advertising fee. However, www.jobasia.com does disclose receiving advertising fees from employers (and not from job seekers) (reference A, pages 2 and 6), thereby incorporating the advertising fees into www.jobasia.com's source of revenue. Official Notice is taken that it is an old and well-known business practice for a company to apply its incoming revenue stream to outgoing costs in order to leverage its cash flow. Consequently, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for www.jobasia.com to utilize the advertising fees it collects from employers to pay for the signing bonuses because the advertising fees are part of www.jobasia.com's source of revenue, thereby allowing www.jobasia.com to leverage its incoming cash flow to pay for outgoing costs.

Additionally, www.jobasia.com does not expressly disclose charging the employers only for job listings that produce hirings. www.replyto.com discloses charging the employers only for job listings that produce hirings (reference E, page 1; www.replyto.com charges companies a percentage of the starting salary of the hiree.). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the employment placement service of www.jobasia.com to utilize a fee

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structure similar to the employment placement service of www.replyto.com where companies are only charged for hirings because doing so encourages companies to post more job listings since it is free. Encouraging companies to post more job listings provides job seekers a larger job pool to search from, thus enhancing the overall effectiveness of the job placement service, as indicated as a result by www.replyto.com on the bottom of page 1 of reference D.

As per claim 59, www.jobasia.com discloses the method of claim 56, wherein the employment placement service provider broadcasts the plurality of job listings, and wherein the step of identifying the job listings comprises:

(i) requiring the applicant to reference the employment placement service provider when applying for the job listing (reference A, page 4; Applicants submit their resumes to employers through the jobasia website (i.e., using the QuickApply tool), thereby referencing jobasia.com when applying for the listing.); and

(ii) receiving, at the employment placement service provider, a notification that the applicant was hired for the job listing (reference B; Jobasia must be notified that an applicant has been hired for a job listing in order to award the hiring bonus to the applicant.).

As per claims 60 and 61, while www.jobasia.com does disclose being notified of a hiring (reference B), www.jobasia.com does not expressly disclose the method of claim 59, wherein the applicant or employer provides the notification. However, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of www.jobasia.com to have the applicant or employer notify jobasia.com

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of a hiring as doing so places the onus on the applicant or employer, thus relieving jobasia.com of extra information to track and allowing the website to focus on other aspects of its services.

As per claim 62, www.jobasia.com does not expressly disclose the method of claim 61, wherein the employer provides the notification after the employment placement service provider determines that the job listing was deleted and after the employment placement service provider questions the employer. However, jobasia.com does disclose updating the job listings seven days a week and removing the listing at a time specified by the employers (reference A, page 2), which is done to ensure that accurate job listings are presented on the website. Thus, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for jobasia.com to have the employer provide the notification after jobasia.com determines that the job listing was deleted and after jobasia.com questions the employer because doing so further supports jobasia.com's goal of maintaining accurate job listings on its website.

As per claim 63, www.jobasia.com discloses the method of claim 56, wherein the job listing is for a critical hire position (reference A, page 4; Jobasia.com includes professional field jobs that are in high demand such as accounting and information technology.).

As per claim 65, www.jobasia.com does not expressly disclose the method of claim 56, wherein the advertising fee includes a fee for the employment placement service provider and a fee for the signing bonus. www.replyto.com discloses the fee for the employment placement service provider is a percentage of the fee for the signing

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bonus (reference E). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of www.jobasia.com to utilize a fee structure similar to that of www.replyto.com where the fee for the employment placement service provider is a percentage of the fee for the signing bonus because doing so encourages companies to post more job listings since listing the job positions is free until an applicant is hired and awarded a hiring bonus. Encouraging companies to post more job listings provides job seekers a larger job pool to search from, thus enhancing the overall effectiveness of the job placement service, as indicated as a result by www.replyto.com on the bottom of page 1 of reference D.

As per claim 66, www.jobasia.com does not expressly disclose the method of claim 65, wherein the employer designates how much the signing bonus is. www.replyto.com discloses the employer designates the amount of the signing bonus (reference D, page 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of [jobasia.com](http://www.jobasia.com) to have the employer designate the signing bonuses as the employer has the best understanding of what signing bonus amounts are commensurate with which positions and, therefore, best attract the desired applicants for the positions, which www.replyto.com has indicated as a goal of the hiring bonus (reference D, page 1).

As per claim 67, www.jobasia.com discloses the method of claim 66, wherein the employment placement service provider broadcasts the plurality of job listings (reference A, pages 2 and 4; reference C, page 1; www.jobasia.com provides job seekers with job listings from employers.), identifies the job listing for which an applicant

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of the plurality of applicants was hired (reference B; www.jobasia.com identifies job seekers who were hired using its service and further classifies the hires into job positions.), and charges the employer the advertising fee (reference A, page 6).

As per claim 68, www.jobasia.com does not expressly disclose the method of claim 55, wherein a bid of the bids comprises one or more of compensation, a bonus, and a working condition. www.replyto.com discloses the method of claim 55, wherein a bid of the bids comprises one or more of compensation, a bonus, and a working condition (reference D, page 2; reference E, page 1; Bids may include bonuses as well as recruitment letters describing the company, job position and corporate culture.). Additionally, it is old and well known in the art of employment recruitment to have a bid to an applicant include compensation, a bonus, and a working condition. At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of www.jobasia.com to have a bid include compensation, a bonus, or a working condition since such information would facilitate an applicant's decision making process by allowing them to evaluate the bid against their own employment/company/salary criteria for deciding whether or not to accept employment from the employer.

6. Claim 75 is rejected under 35 U.S.C. 103(a) as being unpatentable over www.jobasia.com and www.replyto.com, as applied above, and further in view of Dossin et al. "Sign-on Bonu\$e\$ Score for Recruiters."

The following sources explaining the different aspects of www.jobasia.com are considered as describing one reference:

- i. www.jobasia.com (February 1999, archived version) (referred to herein as reference A);
- ii. Article, "Online job markets, most are middle professionals" from *HK Economic Times*, Oct 3, 1998, (referred to herein as reference B);
- iii. Article, "Internet Update Asia 02/19/99," from *Newsbytes*, Feb 19, 1999, (referred to herein as reference C).

The following sources explaining the different aspects of www.replyto.com are considered as describing one reference:

- i. Article, "New Web Site Pays Job Seekers to Help Fill High Tech Job Openings" from *Business Wire*, Nov 22, 1999, (referred to herein as reference D);
- ii. Article, "New Web Site Pays \$50, \$500 or More for Your Resume" from *Business Wire*, July 27, 1999 (referred to herein as reference E).

As per claim 75, www.jobasia.com does not expressly disclose the method of claim 42, wherein the fee for the signing bonus is based on whether a position of the job listing is one of in high demand and highly compensated and wherein the fee for the employment service provider is a percentage of the fee for the signing bonus. www.replyto.com discloses that the fee for the employment service provider is a percentage of the fee for the signing bonus (reference E, page 1; The employment service provider charges the hiring company 1% of the starting salary and then splits

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the fee with the hiree, giving the hiree a .5% of the starting salary as the signing bonus.). Milton et al. discloses providing signing bonuses to positions that are in high demand and highly compensated (paragraphs 3, 5-6). www.jobasia.com, www.replyto.com and Milton et al. are analogous arts in that all discuss ways to help employers find potential employees for particular job positions. Additionally, www.replyto.com and Milton et al. are analogous arts in that both discuss using signing bonuses to incentivize potential employees for particular job positions. Thus, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify www.jobasia.com to have the fee for the signing bonus be based on whether a position of the job listing is one of in high demand and highly compensated and wherein the fee for the employment service provider is a percentage of the fee for the signing bonus because having the signing bonus structured in such a way provides incentives to potential employees for the high demand/highly compensated positions (Milton et al., paragraphs 3, 5-6) and also incentivizes the employment service provider since their pay is based on the signing bonus (i.e., the higher the signing bonus, the higher the fee for the employment service provider; or no hire, therefore, no signing bonus and no fee paid to the employment service provider), thereby enhancing the incentives at both ends of the job search process (the job seekers and the employee seekers).

Response to Arguments

7. Applicant's arguments with regard to claims 42 and 56 that advertising fees from employers are not jobasia's *only* source of revenue, have been found persuasive. Accordingly, the rejections of claims 42 and 56 have been updated.

Applicant's arguments with regard to claim 12 have been fully considered, but are found unpersuasive. In the Remarks, Applicant argues that Reference A teaches away from "notifying the applicant when the searching returns a matching employer." Based on Applicant's argument and the limitations of claim 13 that further limit claim 12 where the notification includes emailing, it appears that Applicant means that the searching occurs without prompting from the applicant and the notification occurs when applicant is not necessarily on the website. However, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Otherwise, Examiner respectfully submits that www.jobasia.com does teach claim 12 in its "Search For Me" feature (reference A, page 4) where it discusses using the applicant's pre-selected search criteria that is saved in their profile (i.e., stored employer information desired by applicant) to search for job ads that match their search criteria when the applicant selects the "Search For Me" button (i.e., periodically searching for employer information desired by applicant) and resulting in a *personalized* list of job ads (i.e., notifying the applicant when the search returns a matching employer).

Applicant's arguments with regard to claim 55 have been fully considered, and have been found partially persuasive. In the Remarks, Applicant argues that the recruitment letter of www.replyto.com does not necessarily contain a bid (i.e., offer to hire) to a job applicant. Examiner agrees with this argument and has updated the rejection accordingly. However, in the rejection of claim 55, Examiner had also asserted Official Notice that it is old and well known in the art of employment recruitment for multiple employers to send bids out to qualified applicants and for applicants to choose a desired bid. Examiner also asserts an additional Official Notice that it is also old and well known in the art of employment recruitment for employers to provide bids/offers for hire to applicants via recruitment letters. These Official Notices, in combination with employers being able to hire applicant's via www.replyto.com's website (reference E, page 1), support that it would have been obvious to a person of ordinary skill in the art for the system of jobasia.com to enable employers to send bids out to qualified applicants and for applicants to choose a desired bid because doing so maximizes the potential for each party to achieve their desired goal (i.e., it allows employers to recruit qualified candidates and it allows applicants to seek employers matching their job/employer/salary criteria).

In conclusions, Applicant's arguments have been fully considered. The arguments that have been found persuasive have resulted in updated rejections.

Accordingly, the rejections of claims 7-9, 11-14, 42, 45-50, 52, 54-56, 59-63 and 65-78 is maintained.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Tremaine (U.S. 5,819,231) discusses a compensation planning tool and method;
- Williams et al. (U.S. 6,873,964) discusses a system and method for recruiting personnel;
- Ackerman, Jerry. "Industry warns of nursing shortage," *The Boston Globe*, Nov 5, 1997 [retrieved from Proquest] discusses offering signing bonuses to nurses for specialized positions;
- Verna, Gigi. "University Hospital looks to fill up to 500 positions," *Cincinnati Business Courier*, Feb 17, 1997 [retrieved from Proquest] discusses offering signing bonuses to nurses for specialized positions;
- Wang et al. "Is your organization's tax-exempt status at risk?" *Healthcare Financial Management*, 1997 [retrieved from Dialog] discusses physician recruitment policies including offering physicians signing bonuses;
- Montagu-Pollock et al. "How the French plan to conquer Asia," *AsiaMoney*, Nov 1997 [retrieved from Dialog] discusses that bonuses are derived from fees paid to headhunters; and
- Van Camp, Ann. "How to find a job online," *Online*, July, 1998 [retrieved from Dialog] discusses various online means for posting and finding job ads.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae (formerly, C. Michelle Colon) whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

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